

**BEFORE
THE ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company	:	:
	:	Docket No. 00-0259
Petition for expedited approval of	:	:
implementation of a market-based	:	:
alternative tariff, to become effective on	:	:
or before May 1, 2000, pursuant to	:	:
Article IX and Section 16-112 of the	:	:
Public Utilities Act	:	:
	:	(cons.)
Central Illinois Public Service Company	:	:
Union Electric Company	:	:
	:	Docket No. 00-0395
Petition for approval of revisions to	:	:
market value tariff, Rider MV	:	:
	:	:
Illinois Power Company	:	:
	:	Docket No. 00-0461
Revisions to Rider TC	:	:

REPLY BRIEF OF THE AMEREN COMPANIES

Central Illinois Public Service Company (“AmerenCIPS”) and Union Electric Company (“AmerenUE”) (the “Ameren Companies”) submit this Reply Brief regarding the issues surrounding the implementation of Market Value Index (“MVI”) tariffs by the Ameren Companies, Commonwealth Edison Company (“ComEd”) and Illinois Power Company (“IP”).

I. Market Value Index vs. NFF

Virtually every party to this proceeding supports the implementation of the MVI proposals. The parties (with the exception of IIEC) differ, in the main, only as to what

adjustments should be made to the proposals, arguing, to varying degrees, about the level by which the MVI proposals might understate the market value of power and energy.

For its part, IIEC contends that the MVI proposals overstate the market value of power and energy. IIEC's only "evidence" for this point is a meaningless comparison of market forward prices and "actual" spot prices. Spot prices are no more "actual" than market forward prices; they only differ as to timing. What the record does demonstrate, as discussed in Ameren's Initial Brief, is that the forward prices derived by the NFF drastically understate the forward prices in the market. IIEC's mismatch of spot and forwards does not support its sanguine assessment of the development of competition in Illinois.

The point is not to select a result-oriented mechanism that develops prices that are high or low, depending on a particular party's goal. What the Commission should do is select the mechanism that produces the most accurate measure of market value. The NFF is so seriously flawed that it cannot be reasonably said to be accurate, and, as Ameren discussed in its Initial Brief, even a flawed MVI proposal is superior to the NFF.

II. Modifications to the MVI Proposals

NEV proposes that “the utilities consent to the Commission’s continuing authority to review and revise the market index tariffs to respond to new and better information.” NEV Br., p. 9. What NEV seeks is a change in the law. Section 16-112(m) of the Act provides that “the Commission may approve or reject, or propose modifications to, any tariff providing for the determination of market value that has been proposed by an electric utility pursuant to subsection (a) of this Section, but shall not have the power to otherwise order the electric utility to implement a modified tariff or to place into effect

any tariff for the determination of market value other than one incorporating the neutral fact-finder procedure set forth in this Section.” Thus, electric utilities proposing MVI tariffs are not required to accept modifications ordered by the Commission, and, if an electric utility does not accept a modification desired by the Commission, the Commission’s recourse is to order the use of the NFF instead. The Commission does not have the authority to impose unilaterally an MVI tariff of its own design.

NEV apparently finds the existing state of law inadequate, and seeks to change it not by legislative means, but by Commission action. It is well settled that administrative agencies, such as the Commission, have only those powers given them by statute, and cannot by their own actions, expand those powers. Accordingly, the Commission cannot change the rules dictated by the legislature. NEV’s proposal should be rejected.

The Ameren Companies do not suggest that the Commission is without authority to protect ratepayers and the competitive process in the event that its MVI tariffs become “out-of-touch” with market conditions and then-available sources of information. Should such circumstances develop, the Commission can exercise its statutory powers to require the Ameren Companies to employ the NFF methodology. That is the extent of the Commission’s authority in this regard. The Ameren Companies’ cannot be required to, and will not, waive their statutory right to decline to accept modifications to their MVI tariffs.

There have been many modifications proposed to the Ameren Companies’ MVI tariffs in this proceeding, and, while the two companies will make their determination when the final conditions are known, it is likely that the companies will proceed with their MVI proposals. There is only one proposed modification that could be

characterized as a “deal killer”, and that is NEV’s proposal to require the Ameren Companies to waive their right to decline modifications to their proposals.

III. “Capacity-Backed” Adjustment

CILCO proposes that the prices used to calculate the market value be increased by some indeterminate amount to reflect the value of “capacity” that, CILCO alleges, is not reflected in those prices. As ComEd discusses in its Initial Brief, the prices used reflect firm power sales. CILCO contends that those sales are “energy only” and do not reflect any capacity component. While the sales are not priced on the basis of separate capacity and energy components, it does not follow that the buyer is not paying for capacity. To the contrary, these are firm sales, and the cost of capacity is reflected in the price. Otherwise, sellers would be providing capacity associated with firm service at no charge, an untenable assumption that CILCO cannot support.

IV. Planning Reserve Adjustment

NEV and CILCO both contend that the Ameren Companies’ MVI proposal understates market value because the Ameren Open Access Transmission Tariff (“OATT”), like the IP OATT, requires applicants for firm transmission service to designate resources (so-called “iron in the ground”) associated with power deliveries into the Ameren system. In their Initial Brief, the Ameren Companies indicated that Ameren is not opposed to the inclusion of a component in the market value that reflects the fact that Ameren requires RES and CSMs to have a 15% reserve margin. Under Ameren’s recently filed OATT Schedule 4A, reserve capacity is available from Ameren on a daily basis to RES supplying retail load. Ameren Ex. 5.0, p. 7. Ameren proposed that the pricing for this component of the market value be taken from Ameren’s OATT Schedule

4A. Id. Using the pricing and methodology specified in Schedule 4A, the Period A MVs that Ameren has previously submitted would be modified accordingly. Id.

As an alternative, NEV proposes that the Commission direct the Ameren Companies to discontinue the “iron in the ground” requirement. The Ameren OATT is subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (“FERC”). The Commission lacks authority to direct the Ameren Companies to modify the terms or the interpretation of a FERC-jurisdictional tariff. Regardless, such a measure is not necessary in light of the Ameren offer to adjust market value to reflect the transmission requirement at issue.

V. Optionality

NEV proposes that the Commission require the Ameren Companies to incorporate an optionality adjustment, using either Black's Model, the Monte Carlo method or some other method to be developed by the utilities. The Ameren Companies have already addressed the problems with the Black's Model proposal in their Initial Brief. The Monte Carlo proposal is even more infirm.

NEV never discussed this model in any of its testimony. The only discussion of it in the record occurred during the cross-examination of Ameren witness Eacret. NEV claims that :

Ameren witness Eacret acknowledged that the Monte Carlo simulation model is another worthwhile approach that could be used. (*See* Tr. at 1122-1123.) Ameren witness Eacret explained that “rather than fixing the values for those [load uncertainty] variables, they are given a distribution that can – the distribution can take on any of several forms, and then you run many, many iterations of that model allowing that variable to move within that distribution.” (*See* Tr. at 1123.)

NEV overstates the case. Mr. Eacret never endorsed the use of the Monte Carlo method for the purposes NEV claims. Moreover, the description of the method -- limited to Mr. Eacret's casual summary -- falls far short of providing the Commission a basis on which to make an informed decision. NEV is overreaching, and its proposal should be rejected.

WHEREFORE, for all the reasons stated herein, the Ameren Companies request that the Commission approve the revisions to Rider MV proposed in their Petition in Docket No. 00-0395.

Company

Respectfully submitted,
Central Illinois Public Service

Union Electric Company

Christopher W. Flynn
Jones, Day, Reavis & Pogue
77 W. Wacker
Suite 3500
Chicago, Illinois 60601
(312) 782-3939
(312) 782-8585 (fax)
cflynn@jonesday.com

Joseph H. Raybuck
Ameren Services Company
1901 Chouteau Avenue
P.O. Box 66149 (M/C 1310)
St. Louis, Missouri 63166-6149
(314) 554-2976
(314) 554-4014(fax)
jraybuck@ameren.com